

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-05-065

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF GREAT-
WEST LIFE & ANNUITY INSURANCE COMPANY,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Great-West Life & Annuity Insurance Company, (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated July 13, 2004 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a life and annuity insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on July 13, 2004, the Division completed a market conduct examination of the Respondent's individual life and annuity business. The period of examination was January 1, 2003 to December 31, 2003.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this final agency order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue E1 concerns the following violation: Failure, in some instances, to include a fraud statement, or to include a fraud statement that is substantially similar to that required by Colorado insurance law. The Respondent shall provide evidence to ensure that it has revised its fraud warnings in its printed materials to reflect language that is substantially the same as required in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue E2 concerns the following violation: Failure to provide an incontestability provision that addresses non-payment of premiums. The Respondent shall provide evidence that it has revised all affected forms to include a correct and complete incontestability provision that addresses non-payment of premiums to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue E3 concerns the following violation: Failure to provide the required statements relating to the death benefit and suitability questions as required by Colorado insurance law. The Respondent shall provide evidence that it has revised its forms to include statements relating to death benefit and suitability questions to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue E4 concerns the following violation: Failure to provide a provision that allows for a fixed settlement option. The Respondent shall provide evidence that it has revised its forms to indicate that a fixed settlement option is provided to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
13. Issue E5 concerns the following violation: Failure to provide full disclosure to the policy owner regarding the assets of the separate account and the liability of the general account. The Respondent shall provide evidence that it has revised its forms to fully disclose its use of the separate account to ensure compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue E6 concerns the following violation: Failure to provide an authorization to disclose non-public personal health information that complies with Colorado insurance law. The Respondent shall provide evidence that it has revised its "Authorization to Obtain and Disclose Information" form to ensure compliance with Colorado insurance law.
15. Issue G1 concerns the following violation: Failure, in some instances, to provide a replacement notice that complies with Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that replacement forms are provided to consumers in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
16. Issue G2 concerns the following violation: Providing, in some instances, misleading information regarding the free-look period allowed under a replacement policy. The Respondent shall provide evidence that it has revised its procedures to ensure no misleading information is provided regarding the free-look period allowed under its replacement policy in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue G3 concerns the following violation: Failure, in some instances, to allow credit under the replaced policy or contract's incontestability and suicide period on an internal replacement. The Respondent shall provide evidence that it has revised its procedures to ensure that in the case of an internal replacement, credit is allowed under the replaced policy or contract's incontestability and suicide period in compliance with Colorado

insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

18. Issue G4 concerns the following violation: Failure, in some instances, to notify an existing insurer of an intended replacement within the time period allowed by Colorado insurance law. The Respondent shall provide evidence that it has revised its procedures to ensure that notice regarding replacement is sent to existing insurer(s) within the required time frame in compliance with Colorado insurance law.
19. Issue G5 concerns the following violation: Failure, in some instances, to provide the required thirty (30) day right to return the replacing policy or contract. The Respondent shall provide evidence that it has revised its procedures and forms to ensure that the consumer is provided thirty (30) days to return a replacement policy or contract in compliance with Colorado insurance law.
20. Issue H1 concerns the following violation: Failure to send a letter and notice pertaining to the replacement of an existing policy. The Respondent shall provide evidence that it has revised its procedures to ensure that notices and letters pertaining to the replacement of an existing policy are provided in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
21. Pursuant to § 10-1-205(3)(d), C.R.S., the Respondent shall pay a civil penalty in the amount of six thousand five hundred and no/100 dollars (\$6,500.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
22. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.

23. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self-audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self-audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
24. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
25. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated July 13, 2004, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 15th day of November, 2004.



Doug Dean
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 15th day of November, 2004, I caused to be deposited the within **FINAL AGENCY ORDER NO. O-05-065 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF GREAT-WEST LIFE & ANNUITY INSURANCE COMPANY**, in the United States Mail via certified mailing with postage affixed and addressed to:

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